

**REMARKS**

With this amendment, claims 54, 66, 67 and 88 have been amended. Claims 89-91, which were previously withdrawn from consideration, have been cancelled without prejudice or disclaimer. Claims 41, 46, 48-67, 69-72, 88 and 92-94 are currently pending in the instant application. Claims 88 and 92-94 were previously withdrawn from consideration.

Support for the amendments to the claims can be found throughout the specification (including the claims) as originally filed. No new matter has been added. It is believed that the instant amendments can be entered pursuant to 37 CFR 1.116 because they cancel certain claims and present other claims in better form for allowance or appeal.

The cancellation of and/or amendment of the claims is without prejudice or disclaimer of the subject matter thereof and was done solely to expedite prosecution of the present application. Applicants reserve the right to pursue the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Applicants note with appreciation the Examiner's indication that claims 41, 46, 48-53, 55-65, and 69-72 are allowable.

**Interview Summary**

Applicants gratefully acknowledge the Examiner's courtesy in permitting brief telephonic interviews on April 9 and 10, 2007 (the "Interviews"). During the Interviews, the outstanding rejection of claims was discussed, and certain amendments were discussed. Although no final agreement was reached, Applicants agreed to present amended claims.

Rejections under 35 U.S.C. §112, first paragraph

Claims 54, 66 and 67 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. This rejection is traversed.

Applicants wish to point out that claims 54, 66, and 67, even before the present amendments, inherently contain the limitation that the ring represented by the

structure  is phenyl or pyridyl. 37 CFR 1.75 provides that "[c]laims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim." Each of claims 54, 66, and 67 depends from a claim that explicitly recites the limitation that Ar<sub>2</sub> (which corresponds to the ring

represented by the structure  ) is phenyl or pyridyl. Accordingly, the present amendment merely serves to clarify an existing limitation; as such, Applicants believe that the present amendment does not introduce new matter and satisfies the written description requirement of 35 U.S.C. §112, first paragraph.

Solely for purposes of clarification and without agreeing with the Examiner's position, claims 54, 66 and 67 have been amended to delete the language to which the

Examiner objected and to recite that the ring represented by the structure  is phenyl or pyridyl. This language finds support throughout the application as originally filed, e.g., at page 23, line 18, to page 24, line 16 (describing compounds of Formulae I - III), and pages 114, line 3, to page 189, line 3 (Example 3 and Table III, disclosing many compounds in which the aryl ring corresponding to the ring represented by the

structure  of claims 54, 66, and 67 is phenyl, 2-pyridyl, or 3-pyridyl).

Applicants respectfully urge that the language of the amended claims finds ample written description in the specification (including the claims) as originally filed, and therefore satisfies the requirements of 35 U.S.C. §112, first paragraph. Reconsideration and withdrawal of the rejection is proper and such action is requested.

**Rejoinder of Non-Elected Subject Matter**

Claims 88-94 were previously withdrawn from consideration as being directed to non-elected subject matter. However, the Examiner has indicated that these claims can be rejoined with the allowable subject matter.

Claims 89-91 have been cancelled. Applicants request rejoinder of claims 88 and 92-94 with the previously-allowable subject matter. Claim 88 has been amended to put the claims into better form. Support for the amendments can be found in the specification, e.g., at page 17, line 33 – page 18, line 2. Applicants contend that claims 88 and 92-94 are allowable and such action is requested.

## **CONCLUSION**

For at least the reasons discussed above, this case is believed to be in condition for allowance. Early and favorable action is requested.

Applicants request any extension of time necessary. Although it is not believed that any fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fee be deemed necessary.

Should the Examiner consider that obstacles to allowance exist, the Examiner is invited to contact the undersigned.

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Respectfully submitted,

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